

August 21, 2009

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File No. **L08TY402**
Proposed Ordinance No. **2008-0498**

SINNER REZONE

Rezone Application

Location: 19506 Vashon Highway Southwest

Appellant: Loren Sinner
represented by **Bill H. Williamson**
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King County: Department of Development and Environmental Services (DDES)
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve subject to conditions
Department's Final Recommendation:	Approve subject to conditions
Examiner's Recommendation:	Approve rezone to Community Business-P-Special District Overlay (CB-P-SO), subject to conditions

EXAMINER PROCEEDINGS:

Initial hearing opened:	October 16, 2008
Initial hearing closed:	October 16, 2008

Order of Remand issued:	February 5, 2009
Reconsideration granted and Remand Order revised:	February 19, 2009
Hearing reconvened after resubmittal:	July 30, 2009
Hearing continued administratively:	July 30, 2009
Hearing record closed:	August 6, 2009

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. General Information:

A request for a zone reclassification of 2.28 acres from R-1-SO (Residential, one dwelling unit per acre within a Special District Overlay area) to CB (Community Business)

Location:	North side of Cemetery Road SW, just east of 19506 Vashon Highway SW, Vashon
Applicant:	Loren Sinner L.S. Cedar Co. P.O. Box 128 Vashon, WA 98070
King County Action:	Zone Reclassification
Existing Zone:	R-1-SO
Requested Zone:	CB
Community Plan:	Vashon Town Plan
Section/Township/Range:	NW 5-22-03 / Parcel No.: 0522039018
Threshold Determination:	Determination of Nonsignificance (DNS), September 15, 2008

2. The subject property, the easterly Lot 2 of a two-lot short plat (file KCSP 580018, recorded under 8105290584), lies on the north side of SW Cemetery Road just east of Vashon Highway, on Vashon Island. The area surrounding the two roads' intersection is known as "Vashon Center" or simply "Center." The property is 2.28 acres in area and rectangular in shape, slightly greater in length in the east-west dimension. Its terrain has a gentle grade descending generally to the east. Site vegetation includes trees and grassy understory. A stream, a defined critical area, bisects the site.
3. The property abuts the east side of a commercially-zoned¹ parcel (Lot 1 of the short plat) owned by the Applicant, on which the Applicant operates a commercial business (L.S. Cedar Co.) of the sale of construction lumber and associated building materials. The property lies on the eastern fringe of the Vashon Center commercial/industrial node, which is the southerly and smaller of two commercial/industrial nodes of business-related land uses along Vashon Highway in the "town" area of Vashon Island (the other being the larger node ("Vashon") to the north, separated for a short distance from the subject Vashon Center node by an intervening area of non-commercial uses). The property adjacent to the east is used residentially (and is also owned by the Applicant).

¹ Zoned CB-P-SO, a commercial business (CB) zoning with the conditioning "P-suffix" and with the Special District Overlay. See Finding 9 describing the suffix and overlay.

4. Vashon Highway is designated as a highway and SW Cemetery Road as a principal arterial road in the county's transportation plan. Both roads are improved to rural standards (without curb, gutter and sidewalk) with two-lane blacktop.
5. The zoning of the property is currently R-1-SO (Residential, one dwelling unit per acre, with the Special District Overlay; see Finding 9.B below).² Areas to the north are also zoned R-1-SO, while areas to the east and south are zoned Rural Area-10-SO. The properties in the immediate quadrants of the SW Cemetery Road/Vashon Highway intersection are all zoned CB-P-SO, including the Applicant's commercial business property abutting the subject property to the west as noted above. West of the intersection lie areas of industrial zoning (I-P-SO), as well as some residential zoning.
6. The Applicant requests rezoning³ of the property to CB (Community Business). The application is not accompanied by a formal development plan (such as a formal rezone binding site plan). No structural development is proposed at present for the property. The Applicant desires to use the property for expansion of the adjacent lumber/building materials business, limited to open lumber storage.
7. The comprehensive plan land use designation of the property is Rural Town, assigned by the 2004 general comprehensive plan and the 1996 Vashon Town Plan (a subarea plan which is formally a part of the comprehensive plan). The requested CB zone is a permissible implementing zone of the Rural Town designation. [2008 Comprehensive Plan, p. 11-3]
8. The proposed rezone is not in conflict with any relevant comprehensive plan and town plan policies. [See, particularly, Comprehensive Plan, pp. 3 – 32-34 and 10 – 39-45, and Town Plan, pp. 7-8]
9. Commercial zoning and development in the subject area are subject to two special zoning caveats:
 - A. VS-P29, a "P-suffix" development standard⁴ which limits commercial business (CB) zoning and development within the Rural Town land use designation by a more restrictive use allowance than is generally the case with CB-zoned properties.⁵ DDES's analysis of the effect of the P-suffix development standard VS-P29 on the proposal concludes that the intended building materials/lumber storage use⁶ would be allowable under CB zoning of the property.
 - B. The Special District Overlay noted above, which is specifically in this case SO-140 regarding groundwater protection (applies island-wide).

² The property subject to the rezone proposal was characterized by DDES and the Applicant at hearing as "split-zoned," but that characterization is inaccurate. The reference was to the different zoning applied to each of the two lots of the short plat, but that is not split-zoning; neither lot is split-zoned – the zoning boundary runs along the common lot boundary of the two lots.

³ The regulatory terms "rezone," "rezoning" and "reclassification" are all forms of formal "zone change" and are used interchangeably here. The county code formally uses the term "reclassification." [See, *e.g.*, KCC 21A.44.060]

⁴ Enacted in Ordinance 12824 and codified by reference in KCC 21A.38.030.

⁵ The P-suffix restriction has the legal effect of disallowing land uses inconsistent with VS-P29 regardless of a general rezone to CB.

⁶ The Applicant's intended use is under the Building, Hardware and Garden Materials zoning use classification. [KCC 21A.08.070]

10. DDES recommends approval of the requested rezone, subject to conditions that would regulate operations on the site:
 - A. Prior to placement of business stock materials on the property:
 - i. Installation of landscaping buffers pursuant to KCC 21A.16.060(A).
 - ii. A groundwater protection and drainage control plan submittal and approval by DDES.
 - iii. Updating of the King County Fire Marshal annual permit to reflect the proposed expansion of the lumber yard.
 - B. Restriction of vehicular access to the subject parcel to that via the existing lumberyard to the west (and therefore not directly from Cemetery Road). (DDES states the undesirability of introducing commercial traffic to Cemetery Road. The Applicant noted that there is an existing, rarely used driveway cut immediately to the west (on the adjacent Applicant property) of the site's frontage on Cemetery Road.)
 - C. Lastly, DDES notes that future structural development may be subject to building permit requirements and P-suffix conditions.
11. DDES acknowledged at hearing that the proper zoning classification to be assigned in the requested rezone is not simply CB, but CB-P-SO (applying the P-suffix and special district overlay nomenclature). The Applicant stated a lack of objection to such revision.

KCC 20.24.190 Reclassification (Rezone) Approval Criteria

12. In addition to the basic rezone approval criteria set forth in KCC 21A.44.060 (see Conclusion 1 below), special rezone approval criteria are established in KCC 20.24.190.⁷ The four special criteria, at least one of which must be met, are delineated in the following findings, with an assessment.
13. KCC 20.24.190(A) allows a rezone to be approved if "[t]he property is potentially zoned for the reclassification being requested and conditions have been met that indicate the reclassification is appropriate." "Potential zone" is a term of art in the zoning code and denotes a formal map designation of a property as "potentially suitable for future changes in land use or densities..." [KCC 21A.04.170] In this case, the record shows that the property is not potentially zoned for the requested reclassification. The property is zoned R-1-SO with no potential zone mapping designation. That nomenclature indicates no formal potential for the requested CB zoning. DDES contends that criterion A "seemed to fit better" to the proposed rezone, opining that the special criteria structure of KCC 20.24.190 "doesn't directly address this type of request (the rezone)." DDES then goes on to contend that the proposed rezone conforms to KCC 20.24.190(A) "in spirit" since DDES feels that the property is "potentially zoned in the sense that it is permitted within the comprehensive plan Rural Town designation," and therefore DDES feels that the rezone meets the "intent" of the special criteria. This argument mixes apples and oranges and is unpersuasive. The requirement of a formally assigned formal potential zone designation is explicit in the criterion. Comprehensive plan land use designations are distinct from potential zones.

⁷ These rezone criteria apply to site-specific quasi-judicial rezone applications, not to legislative enactments.

14. Criterion B allows rezone approval if “[a]n adopted subarea plan or area zoning specifies that the property shall be subsequently considered through an individual reclassification application.” The evidence in this case does not show any such specification for the subject property.
15. Criterion C allows rezone approval in cases “[w]here a subarea plan has been adopted but subsequent area zoning has not been adopted, [and] the proposed reclassification or shoreline redesignation is consistent with the adopted subarea plan.” Although it can be seen herein that the proposed rezone is consistent with the adopted subarea plan, the proposal does not meet the first part of the criterion C test, that “a subarea plan has been adopted but subsequent area zoning has not been adopted.” The Vashon Town Plan was adopted through the enactment of Ordinance 12395 effective August 12, 1996. Formal “Vashon Town Plan Area Zoning” was enacted simultaneously in a later section of the same ordinance. Such zoning action, which immediately implemented the Town Plan, constitutes “subsequent area zoning” in the context that the term is used in KCC 20.24.190(C). (Both the Applicant and DDES acknowledged at hearing that subsequent area zoning had occurred.) Therefore, it cannot be concluded that “subsequent area zoning has not been adopted” in this case.
16. Lastly, criterion D allows individual rezone approval if:

The applicant has demonstrated with substantial evidence that:

1. Since the last previous area zoning or shoreline environment designation of the subject property, authorized public improvements, permitted private development or other conditions or circumstances affecting the subject property have undergone substantial and material change not anticipated or contemplated in the subarea plan or area zoning;
2. The impacts from the changed conditions or circumstances affect the subject property in a manner and to a degree different than other properties in the vicinity such that area rezoning or redesignation is not appropriate. For the purposes of this subsection, "changed conditions or circumstances" does not include actions taken by the current or former property owners to facilitate a more intense development of the property including but not limited to changing tax limitations, adjusting property lines, extending services or changing property ownership;
3. For proposals to increase rural residential density (not applicable here), that the proposal meets the criteria in Comprehensive Plan policies R-305 through R-309;
4. For proposals to increase urban residential density (again, not applicable here), that the proposal meets the criteria in Comprehensive Plan policies U-122 through U-126; and
5. The requested reclassification or redesignation is in the public interest.

Individual rezone criterion D essentially incorporates the “changed circumstances” test long established by Washington case law (see Conclusion 3 below), but with codified articulations of particular standards

and specifications of such circumstances, as well as specific plan policy conformity requirements not applicable here and the standard traditional summary rezone approval test that a rezone be in the public interest.

17. Public water service is not available to the subject property for residential development under the existing R-1-SO zoning, due to a service moratorium imposed by Water District No. 19. The moratorium, already longstanding, is unlikely to be lifted in the foreseeable future. (Water service would be available to a commercial development expansion of the Applicant's existing business abutting to the west, via its existing service from Vashon Highway.)
18. At the time of the adoption of the Vashon Town Plan and counterpart implementing zoning in 1996, which were the last major subarea and areawide zoning actions undertaken in the subject vicinity, an extension of sanitary sewer service in the area was contemplated and in fact shortly thereafter installed. A pressure line was extended south on Vashon Highway from areas north of the subject property south along the highway to Vashon High School, with a branch extended easterly down Cemetery Road Southwest (past the subject property) to serve Chautauqua Elementary School. However, at the time of the Town Plan and zoning adoption, it was an established Vashon Sewer District service policy that the pressure line would serve only the schools and other fronting properties and land uses would not have hook-up rights. [Town Plan, p. B-12] That policy was amended in the mid-2000s (again, *after* the 1996 adoption of the Town Plan and implementing zoning) to allow fronting properties to obtain sanitary sewer service. The property therefore has sewer service available to it, either through the Applicant's abutting L.S. Cedar Co. property to the west on Vashon Highway or via the property's direct Cemetery Road Southwest frontage.
19. A sufficiently persuasive case has been demonstrated, by the preponderance of the evidence submitted at the reconvened hearing, that the proposed rezone complies with special criterion D. The evidence shows sufficient qualifying changed circumstances presented by the property in its land use context that justify rezoning the property from R-1-SO to CB-P-SO.
 - A. The change in availability of sanitary sewer service to the subject property which occurred since the last adoption of the Vashon Town Plan and implementing zoning comprises a major aspect of the pertinent changed circumstances. Sewer service has become newly available to the property for development.
 - B. The water service moratorium imposed on residential development by Water District No. 19 means that the subject property, zoned R-1-SO, is unlikely for the foreseeable future to be able to be developed for residential purposes. The alternative to the unavailable public water service is to install a private well, but well installation would paradoxically severely inhibit if not preclude structural development on the property given the requirement of a wellhead protection zone (under health standards) and the critical area buffer encumbrances (65 feet on each side of the stream OHWM according to testimony) posed by the presence of the onsite stream critical area.
 - C. The combination of the newly available sewer service, the lack of public water service for residential development and the unlikelihood of developability utilizing a private well is a special circumstance which is relatively unique to the subject property and thus meets the particularity subcriterion of KCC 20.24.190.D.2 (essentially that the found changed circumstances not apply wholesale to a larger area, which would call for area rezoning consideration rather than a site-specific approach).

- D. The presence of such qualifying changed circumstances meets conformity criteria KCC 20.24.190.D.1 and D.2.
- E. The “changed circumstances” test is met.
- F. As expressed more fully in Conclusion 9 below, the requested classification is in the public interest.
- G. The application conforms to criterion D of KCC 20.24.190.

CONCLUSIONS:

Rezone Analysis

1. Basic county code rezone criteria are set forth in KCC 21A.44.060:

A zone reclassification shall be granted only if the applicant demonstrates that the proposal complies with the criteria for approval specified in K.C.C. Title 20.24.180 and 20.24.190 and is consistent with the Comprehensive Plan and applicable community and functional plans.

2. As reviewed in detail in the above findings, KCC 20.24.190 establishes special criteria for the review of rezone applications. These special criteria operate independently of the other rezone criteria.
3. Rezone proposals are also addressed by Washington case law:

The following general rules apply to rezone applications: (1) there is no presumption of validity favoring the action of rezoning; (2) the proponents of the rezone have the burden of proof in demonstrating that conditions have changed since the original zoning; and (3) the rezone must bear a substantial relationship to the public health, safety, morals, or welfare.

[*Citizens v. Mount Vernon*, 133 Wn.2d 861, 874-75, 947 P.2d 1208 (1997), citing *Parkridge v. Seattle*, 89 Wn.2d 454, 462, 573 P.2d 359 (1978)] The courts have also held that a rezone which serves to implement the adopted comprehensive plan need not meet the “changed circumstances” portion of the *Parkridge* test. [*SORE v. Snohomish County*, 99 Wn.2d 363, 370-371, 662 P.2d 816 (1983); *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846, 899 P.2d 1290 (1995)]

4. The *SORE* holding which preempted the *case law* “changed circumstances” test upon a showing of plan conformity does not preempt the enactment of countervailing local rezone criteria, however. The *codified* “special circumstances” test of KCC 20.24.190.D would not be preempted under the *SORE* holding merely by the happenstance of comprehensive plan conformity; if necessary to approval of a rezone under KCC 20.24.190, criterion D must be met in full even if plan conformity is shown.

5. An effect of the KCC 20.24.190 special rezone criteria is that until reviewed again as part of (usually periodic) legislative area zoning consideration, the established zoning that was enacted in direct comprehensive plan implementation is with limited exception presumed to be intentionally final, regardless whether a reclassification would also conform to the plan. Rezoning on an individual, site-specific basis is permitted only in cases where a property is:
 - A. Expressly specified to be subject to further rezone consideration through formal “potential zoning” nomenclature (criterion A) or by being called out specifically for subsequent rezone consideration by a formal plan (criterion B);
 - B. In an area where there did not occur a legislative zoning enactment to implement a plan (criterion C) and the proposed reclassification is consistent with the adopted subarea plan; or
 - C. Supported by qualifying changed circumstances (criterion D).

In cases other than those expressly qualifying under KCC 20.24.190, rezoning must be undertaken through the legislative area rezoning process.

6. As noted above, the Applicant has made a persuasive case of qualification under the criterion D “changed circumstances” test. The proposal conforms to criterion D and therefore to KCC 20.24.190.

Remaining Rezone Approval Tests

7. Rezoning of the property to CB-P-SO would conform to the comprehensive plan. In particular, it would conform to the Rural Town land use designation applied to the subject area of Vashon Island.
8. A rezone to CB-P-SO would comply with the VS-P-29 P-suffix condition (which, as the land use regulatory scheme stands at present, would also pertain to any future development of the site).
9. In general, conformity of a rezone to the applicable comprehensive plan and code requirements would be tantamount to its “bear[ing] a substantial relationship to the public welfare,” since the comprehensive plan and implementing regulations are the most direct expression of public policy in the topical area of land use. The requested rezone, shown to conform to the comprehensive plan and the code approval criteria, is in support of the public necessity, convenience and general welfare and is in the public interest.

Summary Rezone Conclusion

10. The requested rezone has been shown to meet the applicable approval tests and should therefore be recommended to be approved.

Recommended Conditions⁸

11. To properly provide for the public health, safety and general welfare in the rezoning action, the Cemetery Road access prohibition recommended by DDES as a condition should be revised to allow an exception for controlled emergency access directly from Cemetery Road.

⁸ The Applicant did not oppose the conditions recommended by DDES.

12. The general condition recommended by DDES regarding building permit requirements and regulatory P-suffix compliance by any future development proposal was acknowledged by DDES at hearing to be a “catch-all” condition. The Examiner concludes that with one exception it is redundant and unnecessary as a special rezone condition: In general, whatever policy and regulatory provisions which may apply to future development would apply regardless of express conditions of this rezone approval. The exception is that it is appropriate to specify that the P-suffix and SO nomenclature (resulting in “CB-P-SO” zoning) be attached to the requested CB zone to reiterate formally and clearly that development of the property is subject to the VS-P29 P-suffix regulation and the Special District Overlay.

RECOMMENDATION:

Approve Ordinance No. 2008-0498 to reclassify the property from R-1-SO to Community Business-P-Special District Overlay (CB-P-SO), subject to the following conditions:

- A. Prior to placement of business stock materials on the property, the following actions shall have been completed:
- i. Installation of landscaping buffers pursuant to KCC 21A.16.060(A).
 - ii. A groundwater protection and drainage control plan submittal and approval by DDES.
 - iii. Updating of the King County Fire Marshal annual permit to reflect the proposed expansion of the lumber yard.
- B. Restriction of vehicular access to the subject parcel to that via the existing lumberyard abutting to the west (and therefore not directly from Cemetery Road), except that controlled emergency access directly from Cemetery Road shall be permitted.

ORDERED AUGUST 21, 2009.

Peter T. Donahue
King County Hearing Examiner

**NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) **on or before September 4, 2009**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before September 11, 2009**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE OCTOBER 16, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L08TY402

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Mark Mitchell, representing the Department, Michael Bradley, representing the Applicant and Loren Sinner, the Applicant.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	Land Use Permit Application Form received April 9, 2008
Exhibit No. 2	Rezone Application received April 9, 2008
Exhibit No. 3	SEPA Environmental Checklist received April, 9, 2008
Exhibit No. 4	DDES Preliminary Report and Recommendation
Exhibit No. 5	Seven color photographs showing the site, buildings and structures received April 9, 2008
Exhibit No. 6	Affidavit of Posting
Exhibit No. 7	Notice of application published in the Seattle Times and Vashon Beachcomber on June 4, 2008
Exhibit No. 8	Notice of October 16, 2008 hearing dated September 19, 2008
Exhibit No. 9	Declaration of Non-Significance mailed September 15, 2008
Exhibit No. 10	Notice of decision and SEPA Threshold Determination Recommendation, transmitted September 15, 2008
Exhibit No. 11	Site plans received April 9, 2008
Exhibit No. 12	Assessors map
Exhibit No. 13	Letter to Mr. Sinner and Mr. Bradley from Vashon Maury Island Chamber of Commerce dated October 14, 2008

MINUTES OF THE JULY 30, 2009, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L08TY402

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Mark Mitchell representing the Department, Bill Williamson representing the Applicant, Loren Sinner the Applicant and Michael Bradley.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 14 | 2008 King County Comprehensive Plan Update: Vashon K-2 Area Zoning Study, Public Review Draft: Map Amendment 27; Subarea Plan Land Use Map; Briefing no. 2008-B0173 regarding changes to land use designations; K2 map, parcel descriptions; Briefing No. 2008-B0182 regarding Growth Management and Natural Resources Committee changes to Executive's proposed updates to Comprehensive Plan updates |
| Exhibit No. 15 | Vashon Town Plan, July 1996 |
| Exhibit No. 16 | Email of Loren Sinner sent February 18, 2009, print screens from LS Cedar's website, Yearly Profit and Loss report for 2005 through 2008 for LS Cedar |
| Exhibit No. 17 | iMAP of area surrounding subject property, photographs of businesses surrounding subject property |
| Exhibit No. 18 | Rural Legacy and Communities and Rural Commercial Centers sections of the 2008 King County Comprehensive Plan |
| Exhibit No. 19 | 2008 King County Comprehensive Plan Update: Vashon K-2 Area Zoning Study, Public Review Draft: Implementation and Land Use Designations and Zoning Classifications/Code sections and U-102 designation description |
| Exhibit No. 20 | Letter from Stephanie Warden, DDES Director, to Applicant, dated September 27, 2007, regarding docket request |
| Exhibit No. 21 | Sewer Availability: King County Certificate of Sewer Availability for LS & S Properties |
| Exhibit No. 22 | King County Assessor records for subject parcel; King County Codes 21A.44.040-.080, 20.24.170-197, 21A.04.090-.110; <i>Bjarnson v. Kitsap County</i> , 78 Wn. App. 840; <i>Henderson v. Kittitas County</i> , 124 Wn. App. 747; Hearing Examiner Report and Recommendations for L97RZ001/Southland Corporation and L04TY403/Haley's Park |
| Exhibit No. 23 | Memorandum in Support of Sinner Rezone Application |
| Exhibit No. 24 | DDES Supplemental staff report |
| Exhibit No. 25 | iMAP of area surrounding subject property depicting commercial area/town center referenced in Vashon Town Plan |

The following Exhibit was entered into the record on August 6, 2009:

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| Exhibit No. 26 | Supplemental Applicant argument on site specific adjudicative rezone dated August 6, 2009, with 6 attached pages |
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